

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**KEVIN MAURICE BROWN, SR.,)
v.)
Plaintiff,)
CORRECTIONS CORPORATION OF)
AMERICA, ET AL.,)
Defendants.)**

CIV-14-1426-R

ORDER

Plaintiff filed this action pursuant to 42 U.S.C. § 1983, alleging violation of his civil rights. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Charles B. Goodwin for preliminary review. On April 30, 2015, Judge Goodwin issued a Report and Recommendation wherein he recommended that Plaintiff's claims against Defendants Worsham be considered voluntarily dismissed by Plaintiff, that Corrections Corporation of America ("CCA") be dismissed because Plaintiff has failed to state a claim, and further that the remainder of the action be transferred to the United States District Court for the Eastern District of Oklahoma. Plaintiff has filed an objection that is difficult to construe. He stated in two places that he does not object to transfer and at another that he does. Plaintiff also objects to Judge Goodwin's recommendation that CCA be dismissed and requests appointment of counsel. The Court has conducted its *de novo* review, and finds as follows.

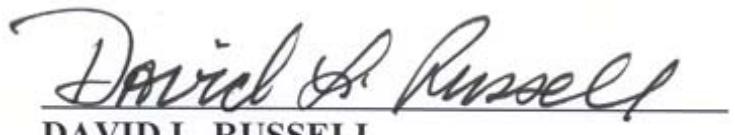
Judge Goodwin recommended dismissal of CCA because Plaintiff only included CCA

in the caption and did not include the private prison operator in his factual allegations. Plaintiff contends CCA was the employer of the individuals about whom he complains and that because it operates a private prison it was acting under color of state law. Judge Goodwin did not question whether CCA, although a private entity, could be a state actor for purposes of § 1983 liability. Rather, the fact that CCA employed persons who allegedly violated Plaintiff's civil rights is not sufficient to hold it liable, and Plaintiff presented no facts in support of his claim against CCA. Judge Goodwin outlined the elements required to hold CCA liable under § 1983, which are the same as those required to hold a municipality liable under § 1983 if its officers violate a person's civil rights. Therefore, it was appropriate for Judge Goodwin to recommended dismissal of CCA without prejudice.

Furthermore, the Court finds that venue in this action is proper in the Eastern District and that this action should be transferred to that District. Plaintiff and the nine individual employees are located in that District and the events giving rise to the litigation occurred therein. As such, the Court hereby adopts the Report and Recommendation and this matter will be transferred to the United States District Court for the Eastern District of Oklahoma. Plaintiff's request for the appointment of counsel is denied without prejudice to renewal of the request transfer.

The Report and Recommendation is hereby ADOPTED in its entirety. Defendant CCA and Worsham are hereby dismissed without prejudice. The Clerk is directed to transfer this action to the Eastern District of Oklahoma.

IT IS SO ORDERED this 12th day of May, 2015.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE